

EXHIBIT L

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**CERTIFIED
COPY**

ABHINAV BHATNAGAR,)
)
)
Plaintiff,)
-vs-) CASE NO. C07-C02669-CRV
)
)
JASON INGRASSIA, individually)
and in his official capacity;)
COUNTY OF CONTRA COSTA; and)
CITY OF SAN RAMON,)
)
Defendants.)
)

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COUNTY OF CONTRA COSTA

DEPOSITION OF MARCUS CAMPAGNA

Tuesday, December 4, 2007

12:20 p.m.

McNamara, Dodge, Ney,
Beatty, Slattery, Pfalzer, Borges &
Brothers, LLP
1931 San Miguel
Walnut Creek, California

Monica A. Comer
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EXHIBIT L-1

1 Lillianna.

2 Q Okay. Let me go back and ask you a couple
3 questions about that, because -- now, this Lillianna
4 person, what's her last name?

5 A Quesida or Queseda, I'm not sure. Starts with
6 Q.

7 Q Did you call her to meet with the two of you
8 for dinner?

9 A Yes.

10 Q And why did you call her?

11 A One, she's a friend. She is a friend. She's
12 a really nice lady. Two, she was a primary witness for
13 my termination in the case, and she had written really
14 statements to help me along in my case. And she met up
15 with us just to, you know, have a good dinner and maybe
16 go over some documents if we had them. Maybe if Abhi
17 had some new documents regarding wrongful termination.
18 And to help them out in the class action, because they
19 were all involved in the class action as well.

20 Q Okay. So I take it Mr. Bhatnagar knew her?

21 A Yes, he did.

22 Q Okay. So if he told me at deposition he
23 didn't know who she was, that's not quite right?

24 A Oh. No, he knows her.

25 Q Okay. How long had he known her?

1 generally some optimism about him getting this job?

2 A Maybe. Maybe not. I don't recall at that
3 time.

4 Q Okay. So who called you who to schedule the
5 dinner to talk about this job opportunity and the
6 lawsuit?

7 A He did.

8 Q Mr. Bhatnagar?

9 A Yes, he did.

10 Q And was it sort of an understanding that those
11 would the two things you'd be talking about?

12 A Yes.

13 Q His job potential?

14 A Yes.

15 Q Or job possibilities for him and also the
16 lawsuit?

17 A Yes.

18 Q And he knew you were going to be inviting
19 Lillianna for the lawsuit part of it?

20 A Yes.

21 Q Okay. And who -- who called Lillianna, then,
22 and actually scheduled the dinner?

23 A I believe I did.

24 Q Okay. And you say you went to some place in
25 Walnut Creek?

1 A Yes.

2 Q All right. And how did you get to Walnut
3 Creek?

4 A Drove with Abhi. He actually picked me up
5 from my house in San Ramon at the 420B Canyon Woods
6 Place. From there we proceeded and took 680 to Walnut
7 Creek. I believe the restaurant was called On The
8 Border or something like that. I am not sure.

9 Q Left Bank?

10 A Left Bank. Thank you. I always get those two
11 mixed up. Left Bank.

12 Q I only know Left Bank. I don't know On The
13 Border, so --

14 A Yeah.

15 Q I just guessed.

16 A Big difference in food.

17 Q Okay. And so Left Bank is a French place?

18 A Yes, I believe so.

19 Q So not a Mexican place?

20 A Exactly. You're right.

21 Q Okay. Did you guys make a reservation?

22 A I don't recall. I think we just walked in.

23 We had to wait for a table, so we went to -- no,
24 actually, no, we didn't, because we had to go to the
25 bar. I ordered the first round of drinks, so no, we

1 didn't. We had to wait for a table.

2 Q Okay. What time did you get to the
3 restaurant?

4 A It was after 7:00. Sometime after 7:00.

5 Q Do you remember what day of the week this was?
6 Or was it a weekend?

7 A No.

8 Q All right. Could it have been after 8:00 when
9 you got to this restaurant?

10 A Probably.

11 Q What's your best estimate?

12 A Oh, boy. Between 7:00 and 8:00.

13 Q And you said Mr. Bhatnagar picked you up at
14 your house?

15 A Yes.

16 Q And you met Lillianna at the restaurant?

17 A Yes.

18 Q What kind of car was Mr. Bhatnagar driving?

19 A Small -- small car. I think it was a Nissan
20 or something like that, or Mazda.

21 Q Do you recall what time he picked you up at
22 your house?

23 A No, I do not.

24 Q Do you remember what time he got to your
25 house?

EXHIBIT L-2

1 A It was after 7:00.

2 Q Was your wife home?

3 A Yes.

4 Q Is there a reason she didn't go with you?

5 A It was primarily business, so, you know, she
6 worked a long day. She starts work at 5:30, 6:00
7 o'clock. Last thing she wants to do is go out to
8 dinner and discuss work.

9 Q Did she know Mr. Bhatnagar?

10 A Not really, no.

11 Q Okay. Had you had anything to drink before
12 you left of an alcoholic nature?

13 A No.

14 Q Do you know whether or not Mr. Bhatnagar had
15 had anything to drink of an alcoholic nature before he
16 picked you up?

17 A No.

18 Q When you got to the restaurant, do you have
19 any recollection as to what either you, Lillianna or
20 Mr. Bhatnagar ordered when you bought that first round
21 of drinks?

22 A I just remember they were -- I think I had a
23 tequila and a beer. And they both had these blue
24 drinks, I don't know what they were, but they were
25 blue. But they had alcohol in them.

1 Q All right. How long were you at the bar
2 before you got a table?

3 A Probably 10 minutes, 15 minutes.

4 Q Okay. And did you have any more than one
5 drink while you were at the bar?

6 A No, it was just one drink each at the bar.

7 Q When you sat down for dinner, did you order
8 right away?

9 A Yes, we ordered appetizers. We ordered a lot
10 of food. I remember I ordered the chicken, and it came
11 like a whole chicken, and so I had -- I gave him -- I
12 gave Abhi the rest of my dinner. It was a big piece of
13 chicken. And I believe he had salmon, and Lillianna
14 had salmon.

15 Q Okay. And did you have hors d'oeuvres before?

16 A I know we had hors d'oeuvres, I just don't
17 know what we had.

18 Q Did you or anybody else have anything of a
19 alcoholic nature with dinner?

20 A Oh, yes.

21 Q Okay. Tell me what you had.

22 A I remember we had another round at least.

23 Q Did anybody order a bottle of wine?

24 A I don't recall that.

25 Q Do you have any recollection as to how many

EXHIBIT L-3

1 Q All right. How long were you at the bar
2 before you got a table?

3 A Probably 10 minutes, 15 minutes.

4 Q Okay. And did you have any more than one
5 drink while you were at the bar?

6 A No, it was just one drink each at the bar.

7 Q When you sat down for dinner, did you order
8 right away?

9 A Yes, we ordered appetizers. We ordered a lot
10 of food. I remember I ordered the chicken, and it came
11 like a whole chicken, and so I had -- I gave him -- I
12 gave Abhi the rest of my dinner. It was a big piece of
13 chicken. And I believe he had salmon, and Lillianna
14 had salmon.

15 Q Okay. And did you have hors d'oeuvres before?

16 A I know we had hors d'oeuvres, I just don't
17 know what we had.

18 Q Did you or anybody else have anything of a
19 alcoholic nature with dinner?

20 A Oh, yes.

21 Q Okay. Tell me what you had.

22 A I remember we had another round at least.

23 Q Did anybody order a bottle of wine?

24 A I don't recall that.

25 Q Do you have any recollection as to how many

1 drinks Mr. Bhatnagar had when you were having dinner?

2 A A couple.

3 Q Okay. So he had at least one at the bar, or
4 he had one at the bar and then he had at least a couple
5 at dinner?

6 A Maybe so, yes.

7 Q Okay. And what were you guys talking about at
8 dinner?

9 A The case, and Patrick Williams.

10 Q Okay. And what were you talking about with
11 regard to Mr. Williams?

12 A Getting an application to Patrick Williams at
13 soon as possible, because he had a position that he
14 wanted to close there at his store for a manager in
15 training.

16 Q Okay. Were you interested in that position?

17 A Yes, I was.

18 Q So you were suggesting it to Mr. Bhatnagar
19 when you were maybe going to compete for the position?

20 A Probably so.

21 Q Did you ever apply for it?

22 A I walked in there, talked to Patrick for a
23 while and didn't like what was going on. You could
24 already see when you have management background that
25 it's not going to be for you, and so I just walked out.

1 Q Did you yourself have a concern about him
2 driving based on what he'd had to drink?

3 A Not really. I thought he was all -- I mean, I
4 thought that he could drive. I didn't have a big
5 concern.

6 Q Were you surprised when you got a call that he
7 was arrested for DUI based on --

8 A Yes, I was. I did.

9 Q Okay. So you didn't think he'd had that much
10 to drink?

11 A I thought, well, I thought that he had enough
12 that maybe if he were to get pulled over, it would
13 still be, you know, there was going to be consequences,
14 yes. But, you know, I couldn't, after I had seen as
15 much as he ate, I mean, he had a lot of food in him.
16 I didn't think that it would matter. I thought it
17 would help him, if anything, so.

18 Q Did the alcohol appear to have any effect on
19 Mr. Bhatnagar?

20 A No.

21 Q Okay. All right. So Mr. Bhatnagar had at
22 least one drink at the bar before you sat down? Two
23 drinks during dinner, and then did he have a beer also
24 at the bar near your house?

25 A A beer, yeah. I don't know if he finished it,

1 but I know we got a beer, and, you know, I wished him
2 luck with the job, and hope everything went well
3 dropping off his application.

4 Q When he was at the restaurant, did you have
5 any sense what sort of drink he had?

6 A It was like they call them a foo-foo drink. I
7 don't drink those, so I don't know what it was called.
8 But I know it had a lot, you know, they're yea big.

9 Q Okay. That's what, about eight inches?

10 A Maybe an eight-ounce glass or something like
11 that.

12 Q Okay. And do you have an impression whether
13 or not it was hard drink or -- well, it was a hard
14 drink or mixed drink?

15 A It was a mixed drink, yes, it was.

16 Q Okay. All right. Had you ever been with
17 Mr. Bhatnagar when he'd had anything of an alcoholic
18 nature before?

19 A No.

20 Q All right. So you both go home after you have
21 gone to the bar near your house, Mr. Bhatnagar leaves,
22 what do you do?

23 A I actually put on the T.V., because I'm night
24 owl, and I was up for a while, and I get a phone call,
25 I believe I got a phone call, or I might have called

EXHIBIT L-4

1 drinks Mr. Bhatnagar had when you were having dinner?

2 A A couple.

3 Q Okay. So he had at least one at the bar, or
4 he had one at the bar and then he had at least a couple
5 at dinner?

6 A Maybe so, yes.

7 Q Okay. And what were you guys talking about at
8 dinner?

9 A The case, and Patrick Williams.

10 Q Okay. And what were you talking about with
11 regard to Mr. Williams?

12 A Getting an application to Patrick Williams at
13 soon as possible, because he had a position that he
14 wanted to close there at his store for a manager in
15 training.

16 Q Okay. Were you interested in that position?

17 A Yes, I was.

18 Q So you were suggesting it to Mr. Bhatnagar
19 when you were maybe going to compete for the position?

20 A Probably so.

21 Q Did you ever apply for it?

22 A I walked in there, talked to Patrick for a
23 while and didn't like what was going on. You could
24 already see when you have management background that
25 it's not going to be for you, and so I just walked out.

1 A Yes, I did. For about six months.

2 Q All right. What sort of things did you do for
3 Carrow's?

4 A Management.

5 Q And what stores did you manage?

6 A Just that one.

7 Q In where, Martinez?

8 A Yes.

9 Q Where is it physically located in Martinez?

10 A I don't recall that right now, the address. I
11 think it was off Highway 4, something like that.

12 Q Okay. So it's up in the newer area of
13 Martinez?

14 A Yes.

15 Q All right. I am thinking there is one in
16 Pleasant Hill. Am I correct or incorrect about that?

17 A I am not sure. I know they closed down a lot
18 of Carrow's and Coco's at the time that I came in, so.

19 Q All right. So were you manager the whole time
20 you worked there?

21 A Yes.

22 Q And why was it that you left?

23 A Act -- the thing that happened was that Abhi
24 got wrongfully terminated. And I was a witness for
25 Abhi at the time. And they fired me for de --

1 defending him at that time. And that's how we
2 actually, you know, talked about the situation
3 throughout that he had with his lawsuit against Carrow'
4 for the last couple of years, so it's off and on he has
5 been calling up.

6 Q Is it your understanding that lawsuit is still
7 pending?

8 A Yes, it is.

9 Q Okay. And you said that you expressed the
10 opinion that Mr. Bhatnagar had been wrongfully
11 terminated; is that what you said?

12 A Yes, he was.

13 Q And you had knowledge of that?

14 A Yes, I did.

15 Q And what was your understanding as to the
16 facts and circumstances that led to that wrongful
17 termination?

18 A That -- if I can recall, it was just he didn't
19 get along with the GM there, Andrea, and I don't know
20 her last name, I forgot it. But they just didn't get
21 along, and she had him terminated for her own reasons,
22 and that's all I know about that.

23 It wasn't -- he didn't get fired fairly. You
24 know what I am saying? They fired him unfairly and
25 that was it. It was just no questions about it. He

1 just -- they just fired him, no reason. And so when I
2 asked Andrea about it, that she never gave me a
3 specific reason.

4 Q Okay. So what was it that you were aware of
5 that led you to form the conclusion that he was
6 wrongfully terminated?

7 A Well, you have to have a reason to fire
8 somebody.

9 Q Okay. So your -- your feeling was that he was
10 fired without a reason?

11 A Exactly.

12 Q Therefore that meant --

13 A Yes.

14 Q -- it was wrongful?

15 A Yes.

16 Q Okay. Did anybody from the company ever
17 explain to you why they fired him?

18 A Not that I can recall.

19 Q Did Mr. Bhatnagar ever tell you why he thought
20 they'd fired him?

21 A Race. His race. He said something about
22 race.

23 Q Okay. Do you recall specifically what he told
24 you about that?

25 A That -- he said Andrea didn't like him -- like

1 A No.

2 Q Okay.

3 A That's it.

4 Q All right. So how much time elapsed between
5 the time when Mr. Bhatnagar was terminated and you were
6 terminated from Carrow's?

7 A I believe it was like a month.

8 Q Okay. Did anything happen in that month
9 period of time where anybody from Carrow's criticized
10 you for sticking up for Mr. Bhatnagar or anything like
11 that?

12 A Yes.

13 Q Tell me what happened about that.

14 A Basically Andrea didn't like it when I
15 questioned her about Abhi's termination, and soon after
16 I asked her a couple of questions why, you know, why
17 did you fire Abhi, because he was, you know, a great
18 employee. She said it was none of my business. And I
19 got a visit the next day with a termination letter.

20 Q Really? That quickly?

21 A That quickly. That fast. And that was that.

22 Q Did you do anything about that?

23 A Yes, I did. I, actually, it was a great
24 thing. I didn't do anything for a while. I just
25 wanted to let it go because, you know, I was doing my

1 own property management anyways, I have 11 homes, and
2 it turns out to be that Abhi gave me a call one day,
3 and says, hey, you know, I have this real great
4 attorney, Daniel Feder in San Francisco, and I think he
5 is taking care of a class action against Carrow's right
6 now.

7 I said, well, you know what, I will go down
8 there. I will talk to the guy. And I went down there,
9 talked to him, and he turned out to be a really good
10 attorney, and he said he'd take care of my wrongful
11 termination and I said, great, go for it. And that's
12 where we're at now.

13 Q So what's your understanding of the status of
14 that case?

15 A Right now the class action, from what I heard
16 it's going to be settled soon. Like January 24th they
17 have a court date.

18 Q Do you know where the case is filed?

19 A Through --

20 Q What court?

21 A I want to say Walnut Creek, but I'm not sure.

22 Q So Contra Costa County?

23 A Yeah, Contra Costa County.

24 Q Do you know the name of the judge?

25 A Oh, god, no, I don't, but I could get you that

1 Lillianna.

2 Q Okay. Let me go back and ask you a couple
3 questions about that, because -- now, this Lillianna
4 person, what's her last name?

5 A Quesida or Queseda, I'm not sure. Starts with
6 Q.

7 Q Did you call her to meet with the two of you
8 for dinner?

9 A Yes.

10 Q And why did you call her?

11 A One, she's a friend. She is a friend. She's
12 a really nice lady. Two, she was a primary witness for
13 my termination in the case, and she had written really
14 statements to help me along in my case. And she met up
15 with us just to, you know, have a good dinner and maybe
16 go over some documents if we had them. Maybe if Abhi
17 had some new documents regarding wrongful termination.
18 And to help them out in the class action, because they
19 were all involved in the class action as well.

20 Q Okay. So I take it Mr. Bhatnagar knew her?

21 A Yes, he did.

22 Q Okay. So if he told me at deposition he
23 didn't know who she was, that's not quite right?

24 A Oh. No, he knows her.

25 Q Okay. How long had he known her?

1 generally some optimism about him getting this job?

2 A Maybe. Maybe not. I don't recall at that
3 time.

4 Q Okay. So who called you who to schedule the
5 dinner to talk about this job opportunity and the
6 lawsuit?

7 A He did.

8 Q Mr. Bhatnagar?

9 A Yes, he did.

10 Q And was it sort of an understanding that those
11 would the two things you'd be talking about?

12 A Yes.

13 Q His job potential?

14 A Yes.

15 Q Or job possibilities for him and also the
16 lawsuit?

17 A Yes.

18 Q And he knew you were going to be inviting
19 Lillianna for the lawsuit part of it?

20 A Yes.

21 Q Okay. And who -- who called Lillianna, then,
22 and actually scheduled the dinner?

23 A I believe I did.

24 Q Okay. And you say you went to some place in
25 Walnut Creek?

EXHIBIT L-5

1 Q Do you know whether or not Mr. Bhatnagar ever
2 applied?

3 A Yes, he did. He actually --

4 Q What happened?

5 A He told me he applied. I don't know what
6 happened after the fact, though. I know he applied.

7 Q Did he ever -- did he ever tell you that he
8 got the job or didn't get the job?

9 A No.

10 Q Did you ever see Mr. Williams and did he ever
11 tell you whether he got the job or didn't or why not?

12 A No.

13 Q All right. How long were you at the
14 restaurant?

15 A At least until 10:00. Maybe past 10:00. A
16 lot of talking going on.

17 Q Okay. And then when you left the restaurant,
18 where did you go?

19 A On the way back we actually, we said bye to
20 Lillianna, and on the way back there was a bar next to
21 my house, a little bar, it's called El Balazo, and went
22 in there and had one more beer, and then after that,
23 about 20, 30 minutes after that we went home.

24 Q Okay. Did you walk from the bar to your
25 house?

EXHIBIT L-6

1 Q Do you know whether or not Mr. Bhatnagar ever
2 applied?

3 A Yes, he did. He actually --

4 Q What happened?

5 A He told me he applied. I don't know what
6 happened after the fact, though. I know he applied.

7 Q Did he ever -- did he ever tell you that he
8 got the job or didn't get the job?

9 A No.

10 Q Did you ever see Mr. Williams and did he ever
11 tell you whether he got the job or didn't or why not?

12 A No.

13 Q All right. How long were you at the
14 restaurant?

15 A At least until 10:00. Maybe past 10:00. A
16 lot of talking going on.

17 Q Okay. And then when you left the restaurant,
18 where did you go?

19 A On the way back we actually, we said bye to
20 Lillianna, and on the way back there was a bar next to
21 my house, a little bar, it's called El Balazo, and went
22 in there and had one more beer, and then after that,
23 about 20, 30 minutes after that we went home.

24 Q Okay. Did you walk from the bar to your
25 house?

1 A No, we drove.

2 Q Okay. So it's --

3 A I was still sober.

4 Q But it's not that close to your house, then?

5 A No, it's actually about two blocks from the
6 house. It's very close. You could walk. I mean, five
7 minutes.

8 Q Okay. And what time did you get to your
9 house, is your best estimate?

10 A After 10:00.

11 Q Okay. Was it before 12:00?

12 A Yes, I believe so, yes.

13 Q Okay. When you got to your house did you
14 invite Mr. Bhatnagar in?

15 A Yes, I did.

16 Q How long did he stay at your house before he
17 left?

18 A He didn't.

19 Q He did not stay.

20 A No, he said he had to go, and I asked him are
21 you sure. And he said sure, I am fine, I can drive, I
22 am good. I didn't have that much to drink. And I said
23 okay, you are your own man, go ahead. See you later.

24 Q Okay.

25 A And that was that.

EXHIBIT L-7

1 but I know we got a beer, and, you know, I wished him
2 luck with the job, and hope everything went well
3 dropping off his application.

4 Q When he was at the restaurant, did you have
5 any sense what sort of drink he had?

6 A It was like they call them a foo-foo drink. I
7 don't drink those, so I don't know what it was called.
8 But I know it had a lot, you know, they're yea big.

9 Q Okay. That's what, about eight inches?

10 A Maybe an eight-ounce glass or something like
11 that.

12 Q Okay. And do you have an impression whether
13 or not it was hard drink or -- well, it was a hard
14 drink or mixed drink?

15 A It was a mixed drink, yes, it was.

16 Q Okay. All right. Had you ever been with
17 Mr. Bhatnagar when he'd had anything of an alcoholic
18 nature before?

19 A No.

20 Q All right. So you both go home after you have
21 gone to the bar near your house, Mr. Bhatnagar leaves,
22 what do you do?

23 A I actually put on the T.V., because I'm night
24 owl, and I was up for a while, and I get a phone call,
25 I believe I got a phone call, or I might have called

1 him, I'm not sure. I am not sure how that went. But I
2 remember talking to him. He called me. It was from
3 the jail, and he told me that he was getting a DUI, and
4 I was -- I didn't know what to say, because, you know,
5 you are going to jail.

6 And I said, well, what's going to happen now.
7 And he stated to me, well, the officer's going to let
8 somebody pick me up in 20 to 30 minutes, I believe
9 that's what he said. I'm not sure. And I said, okay,
10 so what do you need from me. Well, can you pick me up.
11 And I'm like, well, I can send you a taxi, you know.
12 And -- because it was already late. And the officer in
13 the background said 20, 30 minutes. And then all of a
14 sudden it hung up. That was it. Didn't hear any
15 conversation between him and the officer at all.
16 Nothing. But he didn't seem distressed. He didn't
17 seem like he was angry or anything like that. He just
18 seemed normal, so.

19 Q All right. Did you have anything else to
20 drink of an alcoholic nature after you got home when
21 you were watching T.V.?

22 A Yes.

23 Q What did you drink?

24 A I started drinking some, I had Bud Light, and
25 I might have drank some more tequila.

EXHIBIT L-8

1 (Telephone interruption.)

2 THE WITNESS: True. That's not me.

3 THE VIDEOGRAPHER: Going off the record, the
4 time is 1:05.

5 (Short break taken.)

6 THE VIDEOGRAPHER: Back on the record. The
7 time is 1:16.

8 Q BY MR. FITZGERALD: Okay. Mr. Campagna, I was
9 asking you a question when we took a break due to some
10 electronic interference. During the break, you
11 indicated to me that you had the phone number available
12 that we talked about you, and you went out and got it
13 from your car, so for the record why don't you give us
14 Lillianna's phone number.

15 A Yes, Lillianna's phone number is 925-768-2077.

16 Q Okay. And what you're referring to, does that
17 give us her last name?

18 A No, it doesn't.

19 Q Okay.

20 A Sorry about that.

21 Q That's okay. All right. And I think before
22 we took the break I was beginning to ask you some
23 specific questions about what we previously marked as
24 Exhibit Number 1. And I will start out again.

25 The first sentence reads:

1 "I, Marcus Campagna, had dinner with
2 Mr. Bhatnagar along with my friend
3 Ms. Lillianna on May the 19th, 2006."

4 Is that statement correct?

5 A Yes.

6 Q The next sentence says:

7 "I remember Mr. Bhatnagar had a sore
8 throat but he said he is fine for the
9 evening," period.

10 Do you remember Mr. Bhatnagar telling you

11 that?

12 A Yes, he did, and he had real -- I think he had
13 some kind of allergy problem with his eyes. They were
14 really bloodshot at the beginning of the night. I
15 tried telling him to get some Visine or something like
16 that.

17 Q Okay.

18 A He said he had some.

19 Q The next sentence says:

20 "He," I'm assuming we are referring to
21 Mr. Bhatnagar here, "had a margarita and a Bud Light
22 beer, as I remember," period.

23 Based on what you've told me before, that
24 statement is not true; is that correct?

25 A Yes.

1 Q So that -- the statement that he had margarita
2 and a Bud Light beer is not true.

3 A I don't remember him having a beer. Maybe the
4 mixed drink, yes, of course.

5 Q Okay. But you don't remember that?

6 A No.

7 Q So the fact that this statement says that you
8 remember that, that's an incorrect statement?

9 A Yes.

10 Q All right. The next sentence says:

11 "We left the restaurant around quarter
12 to 1:00."

13 Is that statement true?

14 A I don't recall the time that we left.

15 Q Quarter to 1:00 would be a little bit later
16 than what you and I were discussing?

17 A Yes.

18 Q As you sit here now, do you recall what time
19 you left the restaurant?

20 A Way before 1:00, I believe.

21 Q Okay. So that statement in Exhibit Number 2
22 is incorrect?

23 A I believe so.

24 Q All right. The next sentence says:

25 "Just before leaving Mr. Bhatnagar had

1 noticed his gas was empty," period.

2 Did you know that?

3 A No.

4 Q Okay. So that statement in Exhibit Number 2
5 is not correct as well?

6 A Exactly.

7 Q All right. The next sentence says, "I
8 offered" -- let's strike that.

9 Okay. All right. The next sentence says:

10 "I offered him that I will follow up to
11 the gas station if his car had trouble."

12 Is that statement true?

13 A No.

14 Q Just so we're clear here, did you drive to the
15 restaurant or did Mr. Bhatnagar drive to the
16 restaurant?

17 A I did.

18 * Q So then when -- so Mr. Bhatnagar drove his car
19 to your house and he left your house in his car?

20 A Exactly. When he came back he took his car
21 and left.

22 Q But you drove to and from the restaurant?

23 A Yes.

24 Q The next sentence in Exhibit 2 says:

25 "He said that his car is small and he

1 will make it to the gas station as it is
2 nearby and thanked me."

3 Did that happen?

4 A I don't recall.

5 Q The next sentence says:

6 "I noticed that he drank some cough
7 syrup for his throat."

8 Is that statement true?

9 A I don't recall. I don't recall him saying
10 that. No, it's not true.

11 Q The next sentence says:

12 "After almost an hour I noticed a missed
13 call and I thought it might be
14 Mr. Bhatnagar, so I called him."

15 Is that statement in Exhibit 2 true?

16 A Yes, I remember that.

17 Q Okay. The next sentence says:

18 "When I called him he was in custody of
19 San Ramon police."

20 Is that statement true?

21 A I'm not sure. I remember -- I'm -- I'm not
22 sure if he called me back or not after I called him and
23 I got a missed call from him, but I remember we talked
24 that night. And I want to say he did call me when he
25 was in custody in the San Ramon Police Department.

1 Q So he called you from being in custody?

2 A I believe so, yes. From his jail cell.

3 That's what he said. Or he had his phone on him.

4 Q The next sentence says:

5 "He was crying and telling me that he
6 was trying to get gas and somehow got
7 arrested for DUI."

8 There's a lot of things in that sentence. Is
9 any of that sentence true?

10 A I didn't feel he was crying. I didn't feel he
11 was, you know, being treated inhumanely in any way. I
12 just didn't feel -- I don't know. He didn't show any
13 feelings on the phone.

14 Q Okay. Then the next sentence says, quote:

15 "I heard in the background that officer
16 was telling him to stop crying and
17 saying it's only a misdemeanor and even
18 though you look like a terrorist, I am
19 not charging you for that."

20 Did you --

21 A Absolutely not.

22 Q Okay. So that sentence is entirely not true?

23 A Entirely not true.

24 Q The next sentence says:

25 "I told Mr. Bhatnagar how could you

1 listen all that, and then his phone got
2 disconnected," period.

3 Is that sentence true?

4 A No.

5 Q The next sentence says:

6 "Few minutes later he called me and I
7 was very concerned for him," period.

8 Is that sentence true?

9 A No.

10 Q Next sentence says:

11 "He told me that he was alone in the
12 police station with the officer and
13 there was no one else," period.

14 Is that statement true?

15 A No.

16 Q The next sentence says:

17 "He sounded extremely nervous and scared
18 of the officer and then heard the
19 officer to hang up the phone, and it
20 seemed he grabbed the phone from him."

21 Is that statement true?

22 A No.

23 Q Is any of that statement true?

24 A No.

25 Q All right. Next sentence says:

1 "Mr. Bhatnagar that evening seemed fine
2 except his throat and he complained
3 about his contact lenses."

4 Is that sentence true?

5 A I remember him talking about his -- his eyes
6 hurting. They were red. And that he had some
7 allergies. Other than that, we didn't discuss it any
8 further.

9 Q Okay. The next sentence says:

10 "I don't know much of Mr. Bhatnagar, but
11 he seems a very nice person and
12 definitely not alcoholic."

13 Did you write that?

14 A No, I did not.

15 Q Do you have any opinion about any of that?

16 A Well, he has never, ever drank a lot of any --
17 I mean, a lot of alcoholic beverages in front of me, if
18 that's what you are asking. That statement is not what
19 I said.

20 Q Okay. The next sentence says:

21 "Whenever I had met him before he never
22 drank except for those two drinks that
23 night."

24 Is that sentence true?

25 A Yes.

1 Q Okay. It says "two drinks that night,"
2 thought, but you've testified --

3 A He had couple more than two drinks. One from
4 the beginning, two during dinner at least, so that
5 statement there would be false. It would be no.

6 Q Okay. And then he had the fourth drink in the
7 bar close to your house?

8 A Exactly. Yes.

9 Q So at least four drinks?

10 A At least.

11 Q That you know of?

12 A Yes.

13 Q Then the next sentence says:

14 "In fact, he came to meet me to help him
15 out to get a job as he doesn't have a
16 job, but it's unfortunate the way he was
17 treated."

18 Did you write that?

19 A No.

20 Q Did you believe that was true?

21 A No.

22 Q Okay. For the record, I am going to read
23 portions of Mr. Bhatnagar's deposition commencing on
24 page 237, line 2. I am going to read you some things,
25 Mr. Campagna, then I am going to ask you some questions

1 restraining order. I am tired of you calling.

2 Q Did you actually tell her that?

3 A Yeah, I got pissed off. Like I said, I had a
4 lot of choice words with her. I got very angry. And
5 Abhi tried calling me up after that a couple times, and
6 I just wouldn't answer the phone. I didn't want to
7 deal with it. Now I am here today.

8 Q Hopefully this will be the end of it.

9 Just to clarify, referring to Exhibit Number
10 2, what time of the day or night did Mr. Bhatnaqar come
11 to your house and ask you to sign this?

12 A It was late.

13 Q Nighttime?

14 A Yeah, it was late, it was like after 11:00,
15 maybe almost 12:00. It was late.

16 Q Okay. So if he testified at deposition he
17 came by around noon, that would not be true?

18 A Definitely not true.

19 Q If he testified at deposition that you had
20 prepared Exhibit Number 2 and you handed it to him,
21 would that statement be true or not true?

22 A Wouldn't be true.

23 Q Okay.

24 MR. FITZGERALD: Let's do this. Why don't we
25 take a break. Let's see if I can get you a copy of

1 A Exactly, yes.

2 Q All right. Then let me direct your attention
3 to this part over here, for the record page 239, line
4 25, question by me:

5 "Did some point, did you get a copy of
6 Exhibit Number 11 in your possession?

7 "Answer: Yes, sir.

8 "Question: And how did that happen?

9 "Answer: I had gone to his house.

10 "Question: At what time of the day or
11 night did you go to his house?

12 "Answer: I believe it was lunch hours.

13 It was before, I think it was noon or
14 1:00 o'clock in the afternoon.

15 "Question: Can you tell me what day or
16 month it was?

17 "Answer: I don't remember the date,
18 exact date. It was in July or June, end
19 of June or July, first week or second
20 week somewhere, somewhere around that
21 time frame. I don't remember the exact
22 week or date.

23 "Question: 2006?

24 "Answer: Yeah, it was in 2006.

25 When Mr. Bhatnagar testified that you got --

1 he got this document from you, that presumably you
2 prepared, at noon or around lunchtime; is that
3 statement true or false?

4 A False.

5 MR. FITZGERALD Okay. I don't think I have
6 any other questions.

7 MR. HARVEY: I have no questions.

8 MR. CANDAPPA: I have another few questions.

9 MR. FITZGERALD: Sure.

10 MR. CANDAPPA: Thanks. You want to switch
11 sides?

12 THE VIDEOGRAPHER: That would be better.

13 MR. CANDAPPA: I guess that makes sense. We
14 should go off the record.

15 THE VIDEOGRAPHER: Going off the record, the
16 time is 1:48.

17 (Off the record.)

18 THE VIDEOGRAPHER: Back on the record, the
19 time is 1:50.

20 EXAMINATION BY MR. CANDAPPA

21 Q BY MR. CANDAPPA: Mr. Campagna, my name is
22 Jivaka Candappa, and I represent the plaintiff,
23 Mr. Bhatnagar.

24 Is it fair to say that at one point in time in
25 the past you were not a reluctant witness in the

1 plaintiff, Mr. Bhatnagar, in connection with the
2 incident that you are testifying with respect to today?

3 A No.

4 Q Okay. When you gave the written statement
5 which you -- which has been marked for purposes of this
6 deposition I believe as Exhibit 2, you gave that
7 voluntarily, didn't you?

8 A No.

9 Q Did you refuse to sign the statement that's
10 been marked as Exhibit 2?

11 A I was misled to sign the statement.

12 Q My question is when you signed it, did you
13 sign it voluntarily or did Abhi Bhatnagar in any way
14 coerce you to signing the statement?

15 A It's a trick question. I stated earlier he
16 came between 11:00 and 12:00 at night, I was very
17 tired, didn't read the statement, signed it, based on
18 truth on what he said he wrote regarding only the
19 restaurant and our dinner. Whatever else he put into
20 that statement, he put into the statement. I did not.
21 So I have signed it thinking that it was only a
22 statement about the restaurant and about the dinner
23 that we had regarding dinner and business that we were
24 discussing.

25 Q Let's leave aside the substance of the

1 A Yes.

2 Q And you read those -- did you draft those
3 letters before you, you know, signed it?

4 A No. Usually there's a template and you follow
5 a template, you make a copy of it, depending on the
6 circumstances of the situation, and then you -- you
7 have them sign it, you know. It could be I cheat on my
8 work hours, or my hours -- or it could be, you know,
9 coming in late and you have them sign it as a warning
10 and they get three and you are terminated, basically,
11 so --

12 Q But Before they signed it did you have sign
13 the letter as someone who was the author of the letter,
14 of the corrective action notice?

15 A You would sign a copy, yes, you would.

16 Q So you would read it before you signed it?

17 A Of course.

18 Q Now, where exactly did you sign this statement
19 which has been marked as Exhibit 2 for purposes of this
20 deposition? And let me explain what I mean by exactly.
21 It was I understand signed at your residence, but which
22 part of your residence did this signing actually take
23 place?

24 A The front of my house. Abhi came over, I have
25 a town home in Canyon Woods Apartments. He came over.

1 I came out in my pajamas and signed it on the hood of
2 his car.

3 Q I assume your wife -- your wife was at home at
4 the time as well?

5 A Yes.

6 Q Now, you used to own a couple of businesses?

7 A Yes.

8 Q And did that involve a lot of documentation?

9 A Yes.

10 Q Signing legal documents?

11 A Yes.

12 Q Documents that had legal significance?

13 A Yes.

14 Q And did you read those documents before you
15 signed it?

16 A Yes, I did.

17 Q And is it fair to say that when you signed
18 this document for Abhi, you knew it had legal
19 significance?

20 A Yes, I did.

21 Q You knew it was for the DMV hearing?

22 A Yes, I did.

23 Q And you knew you were submitting this under
24 penalty of perjury, did you not?

25 A No.